

### REMARKS

In response to the Final Office Action mailed September 7, 2005, Applicants respectfully request that the Examiner reconsider the rejections of the remaining claims.

Claims 1-11 are pending in the Application.

Claims 1-11 stand rejected.

Claim 6 is currently cancelled.

Claims 7 and 8 are currently amended.

#### Rejections under 35 U.S.C. § 102

Claim 6 stands rejected under 35 U.S.C. § 102(e) as anticipated by *Colson* (U.S. patent number 6,236,909). Claim 6 is currently cancelled without prejudice.

#### Rejections under 35 U.S.C. § 103

Claims 1-5 and 7-11 stand rejected under 35 U.S.C. § 103 based on *Colson* in view of other references. According to 35 U.S.C. § 103(c)(1), subject matter developed by another person which qualifies as prior art only under one or more of § 102(e), § 102(f) and § 102(g), shall not preclude patentability where the subject matter and the claimed inventors were, at the time the invention was made, owned by the same person or subject to an assignment to the same person. At the time the present invention (the subject of claims 1-5 and 7-11) was made, it was subject to assignment to International Business Machines (IBM), the assignee of *Colson*. Therefore, under 35 U.S.C. § 103(c)(1), *Colson* should not be used to reject claims 1-5 and 7-11. Accordingly, Applicants respectfully request the withdrawal of the rejections based on *Colson*.

Applicants respectfully request the Examiner to consider the claim amendments and arguments made in Applicants' previous Amendment Under 37 C.F.R. § 1.116.

The Examiner has asserted that certain provisions under 35 U.S.C. § 103(c) regarding joint research agreements need to be adhered to by Applicants. Applicants respectfully traverse. Applicants merely need to show common ownership or that the claimed inventions was subject to a joint research agreement at the time the invention was made. MPEP §706.02(1)(2). Applicants are not asserting that 35 U.S.C. §103(c) applies because of a joint research agreement, but instead assert that this law applies because at the time the present invention was made it was subject to assignment to International Business Machines which is the Assignee of the *Colson* reference. As previously asserted by Applicants, *Colson* is not proper prior art, and thus the rejections are traversed.

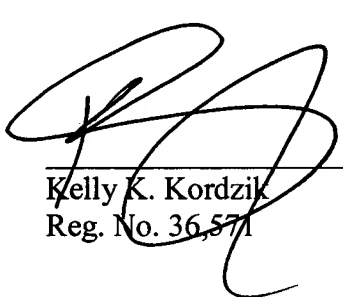
Regarding the Power of Attorney issue presented by the Examiner in the Advisory Action, the assignee concurrently with the filing of this response is filing a Power of Attorney to add Kelly Kordzik as a practitioner of record.

Respectfully submitted,

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